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EXAMINER				
SIMONE, CATHERINE A				
ART UNIT		PAPER NUMBER		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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## ADVISORY ACTION

### *Response to Arguments*

Applicant's arguments filed 10/27/2009 have been fully considered but they are not persuasive.

Applicants argue that “Hata teaches that volumes of less than 1 mm<sup>3</sup> (1,000 nL) would reduce the heat shielding and vibration resistance and therefore Hata teaches away from the void volumes of the present claims, such void volumes are non-functional embodiments not merely non-preferred embodiments”.

However, Hata teaches the reservoirs to each have a volume *preferably* in the range of 1-600 mm<sup>3</sup> (see page 7 of Description, paragraph 0022). Therefore, the volume of each reservoir in Hata does not necessarily have to be in the range of 1-600 mm<sup>3</sup>, it is just *preferred* that each reservoir in Hata have a volume in the range of 1-600 mm<sup>3</sup>. Thus, the volume of each reservoir in Hata could be smaller than 1 mm<sup>3</sup>, such as less than 20 nL. Accordingly, Hata does not teach away from smaller volumes for the reservoirs. Disclosed examples and preferred embodiments do not constitute a teaching away from a broader disclosure or non-preferred embodiments. *In re Sutsi*, 440 F.2d 442, 169 USPQ 423 (CCPA 1971). Furthermore, Applicants have not provided any evidence of the criticality of the claimed range for the volume of the reservoirs. Absent a teaching of the criticality or showing of unexpected results from the volume of each of the reservoirs being within the claimed range, it would not provide a patentable distinction over the prior art. See MPEP 2144.05 (II). As a result, claims 1, 3-7, 12, 14, 15, 19-22, 26, 28-35 and 57-60 are unpatentable over Hata.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CATHERINE SIMONE whose telephone number is (571)272-1501. The examiner can normally be reached on Monday-Friday 9:30-6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Sample can be reached on (571) 272-1376. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David R. Sample/  
Supervisory Patent Examiner, Art Unit 1794

/CAS/  
Catherine A. Simone  
Examiner, Art Unit 1794  
October 29, 2009